

To: Mike Soraghan[msoraghan@eenews.net]
Cc: Ferguson, Lincoln[ferguson.lincoln@epa.gov]; Press[Press@epa.gov]
From: Wilcox, Jahan
Sent: Mon 2/12/2018 10:10:48 PM
Subject: RE: statement/press release

Want to flag this story from the Tulsa World for you.

2013 EPA investigation found no wrong-doing by Tar Creek trust

The Tulsa World

February 12, 2018

http://www.tulsaworld.com/homepagelatest/epa-investigation-found-no-wrong-doing-by-tar-creek-trust/article_ae02def8-ffc0-558e-9d93-c427d2fc0c31.html

A federal investigator found no irregularities or law violations related to the handling of a contract to dismantle and remove buildings in the Tar Creek Superfund site in far northeastern Oklahoma, according to a little-seen 2013 report by the Environmental Protection Agency's Office of Inspector General.

"Extensive record reviews and interviews were conducted and did not disclose evidence to support the allegations," Special Agent Susan Chandler wrote in the OIG report, which has not been generally available to the public, although a redacted copy was obtained by a trust member in 2014 through a Freedom of Information Act request.

Separately, the Tulsa World obtained a copy through a third party. OIC officials confirmed its authenticity.

Chandler's conclusions were at odds with those apparently reached by the state auditor and inspector's office, which conducted an investigative audit of the Lead-Impacted Communities Relocation Assistance Trust, or LICRAT, over several years beginning in 2011.

The A&I audit has never been released, but public and private statements of those familiar with the document indicate it suggests mismanagement and possible criminal conduct related to the Tar Creek contract.

Scott Pruitt, then Oklahoma's attorney general, ordered the audit sealed in 2015 after giving a portion of it to LICRAT's attorney, Andy Lester.

At the time, Pruitt said the audit unfairly made "unsubstantiated criminal allegations against private citizens."

This deepened a feud between Pruitt and Auditor and Inspector Gary Jones, who still insists the audit should be released to the public, and bristles at the suggestion it may have been poorly done.

"If the attorney general thinks the auditor and inspector's office did shoddy work, I'd think he'd want the public to see it," Jones said last week.

The audit and the Tar Creek project again became an issue last year when Pruitt, a sworn enemy of the EPA and ally of some of the nation's largest polluters during his years as Oklahoma's attorney general, was nominated to and subsequently became EPA administrator.

He is also a protege of, and possible successor to, U.S. Sen. Jim Inhofe, who was instrumental in setting up LICRAT and a foe of environmentalists.

Pruitt has thus become the subject of numerous investigations by journalists and environmental groups, with the emotionally charged and politically fraught Tar Creek saga a particularly appealing rock to look under. In November, Washington-based Campaign for Accountability sued to force the state audit's release.

The OIG report lists 15 allegations against LICRAT and project engineer Jack Dalrymple. Most deal with claims that Dalrymple and perhaps trust members conspired to rig the bidding process on a \$3 million contract to remove and dispose of abandoned buildings and otherwise rehabilitate the Tar Creek site.

Contacted Friday, Dalrymple said he, too, wants the A&I report released.

“I’m not afraid of that being released because the trust was just hard-working people who did the right thing,” he said. “I can tell you every single person on that trust was honest and true.”

The allegations, made in a 2012 qui tam lawsuit by Billy Freeman Jr. and Joe Crawford of Ottawa County, also included claims that the work was not done properly.

Chandler, in her report, found each claim without merit. She says the work was done satisfactorily, and notes the contract was for a lump sum, which made questions about how components of the contract were carried out irrelevant.

The suit was dismissed in October 2013, in large part on the basis of the OIG investigation.

Chandler’s report, which is marked “restricted” and “for official use only,” was apparently intended for internal use only. Its primary purpose was to determine whether the federal government should join in the qui tam lawsuit.

A qui tam suit is one brought by private citizens alleging fraud against the federal government under the False Claims Act. This particular suit was one of several actions taken by area residents upset with the handling of the Tar Creek operation.

Most complaints dealt with the buyout — offers too high or too low — but the state and federal investigations in question dealt solely with the removal and rehabilitation contract.

The OIG report says LICRAT made several missteps early in the process, and eventually turned the bidding over to what was then the state’s Office of Central Services.

The portion of the A&I audit given Lester dealt with that stage of the investigation, but people familiar with the entire document, who agreed to speak only on background, say it outlines

irregularities before and after Central Services took over.

Lester says those allegations are baseless.

The politics of the Tar Creek cleanup have always been complex. Besides the Pruitt angle, they involve the rivalry between Inhofe and his former colleague, Tom Coburn, whose staff indirectly initiated the state audit by bringing documents to Jones' office in 2011.

Jones sent the material to Pruitt, who returned it with a letter ordering an investigation.

"This is all because of politics," said Dalrymple, who for decades has been embroiled in lawsuits against the state and federal government over flooding in Ottawa County. "Nobody really cares about our little area. ... I guarantee you (the state is) not trying to protect me."

From: Mike Soraghan [mailto:msoraghan@eenews.net]

Sent: Monday, February 12, 2018 2:11 PM

To: Jahan wilcox (jahan@epa.gov) <jahan@epa.gov>

Cc: Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Press <Press@epa.gov>

Subject: FW: statement/press release

So. In this news release from the office of the Oklahoma State Auditor and Inspector, the elected auditor is making an accusation that the current EPA Administrator and former Oklahoma Attorney General "acted improperly" in a Superfund inquiry. Does Mr. Pruitt have a response? I'm writing this for our PM edition. If a response comes in later we'll do a separate, follow-up story.

"former attorney general acted improperly when he shared the contents"

Mike Soraghan

E&E News reporter

msoraghan@eenews.net

202-709-3699 (office and mobile)

[@MikeSoraghan](#)

E&E NEWS

122 C Street NW 7th Floor Washington, DC 20001

www.eenews.net | [@EENewsUpdates](#)

Energywire, Climatewire, Greenwire, E&E Daily, E&E News PM

From: Trey Davis [<mailto:tdavis@sai.ok.gov>]

Sent: Monday, February 12, 2018 11:58 AM

To: Mike Soraghan <msoraghan@eenews.net>

Subject: RE: statement/press release

AUDITOR: Let the Audit Speak for Itself

At the State Auditor's Office, we focus on two primary matters – accountability and transparency. To achieve these two objectives, our work must be beyond reproach and the entanglement of politics.

Ours is a constitutionally-created, independent office with the principal purpose to examine and inspect whether public officials properly expended public funds.

The constitution names the State Auditor before the Attorney General. We are not agents of the Attorney General and we do not work for the Attorney General.

Our audits examine public records. We look at how public funds are spent. A finding of probable fraud, waste, or abuse is only stated when fully supported by financial records and other evidence.

The Special Investigative Audit of the Lead Impacted Communities Relocation Assistance Trust (LICRAT) was a review of public documents to determine if the LICRAT Board complied with state law in the expenditure of public funds. Special Audits differ from other types of audits because we are not required to conduct these audits in accordance with government auditing standards.

A Special Audit must be requested and conducted when financial mismanagement is believed to have occurred. The LICRAT Special Audit was initially sought by U.S. Senator Tom Coburn. The only reason to involve the AG was because his office is one of five statutorily permitted ways to request a Special Audit. The audit was conducted on behalf of Oklahoma taxpayers.

The former attorney general acted improperly when he shared the contents of the audit report with the subject of the audit. The impropriety was further compounded when he refused to share the audit with the people who paid for it – the taxpayers of Oklahoma.

The LICRAT audit wasn't about Scott Pruitt, left-wing environmentalists, Andy Lester, or politics. As the State Auditor, I have taken the position that the people of our state deserve to know why the LICRAT Board spent over \$3.6 million on a project when the cost could have been less than \$600,000.

If, as Mr. Pruitt's spokesman stated, the audit was "shoddy," then release it so the public can make that determination. If, as Mr. Lester stated, the audit report determined "no direct evidence of a conspiracy against the state," then release the audit so the public can make that determination.

The State Auditor is the fact finder, not the prosecutor. The sole discretion to prosecute is always retained by the prosecutor.

The only issue here is when the prosecutor determines not to proceed – don't cover up the issue by withholding a public document, paid for with public funds, and conducted on behalf of the public.

Audits are complicated. Many times, fraud and embezzlement are complicated. Often audits are confusing to prosecutors who aren't confident they can sufficiently explain it to a jury in order to obtain a guilty verdict. As such, much white-collar crime goes unprosecuted.

I have confidence in the work product of our office, its people, and their professionalism. We stand by the courage of our convictions while others cast aspersions on the reputation and integrity of those who favor accountability and transparency.

Let the Audit Speak for itself.

NOTE: Oklahoma State Auditor Gary Jones doesn't issue many news releases. As auditor, he has consistently taken the position that an audit should speak for itself. Since taking office in 2011, Gary has issued 15 news releases, of which, four were about a specific audit.

From: Mike Soraghan [<mailto:msoraghan@eenews.net>]

Sent: Monday, February 12, 2018 10:25 AM

To: Trey Davis <tdavis@sai.ok.gov>

Subject: statement/press release

Trey,

I'm reading that the Auditor has issued a statement or press release. Could I get a copy?

Thanks,

Mike Soraghan

E&E News reporter

msoraghan@eenews.net

202-709-3699 (office and mobile)

[@MikeSoraghan](#)

E&E NEWS

122 C Street NW 7th Floor Washington, DC 20001

www.eenews.net | [@EENewsUpdates](#)

Energywire, Climatewire, Greenwire, E&E Daily, E&E News PM